REMARKS

Applicant has carefully reviewed and considered the Office Action mailed February 18, 2004, and the references cited therewith.

Claim 19 is amended, and claims 43-48 are added; as a result, claims 1-7, 19-24, 27-35 and 37-48 are now pending in this application. New claims 43-48 are supported in the specification on page 17 lines 25-26; no new matter is added.

In the Amendment and Response filed April 30, 2003, on page 10 lines 17-21, Applicant indicated that claims 8-18, 25-26, and 36 were cancelled.

§112 Rejection of the Claims

Claim 40 was rejected under 35 USC § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant respectfully traverses (as Applicant fully described in the prior response filed December 28, 2003), and respectfully submits a first distribution mechanism driven in a reciprocating motion, as recited in claim 40, is shown and described for example, by Figures 3A and 3C and page 9, lines 5-7 of the specification. Additionally, a first distribution mechanism driven in a reciprocating motion, as recited in claim 40, is shown and described for example, by Figures 3D and page 10 lines 8-10, page 10 lines 29-30, and page 11 lines 1-2 describe a "reciprocating motion" for bars 303 and 305. Reconsideration and allowance of claim 40 are again respectfully requested.

§102 Rejection of the Claims

Claims 19, 21, 22, 24, and 38 were rejected under 35 USC § 102(b) as being anticipated by Rasmussen et al. (4,310,036). Applicant respectfully traverses. Applicant amended claim 19 in the prior response; however the Office Action of February 18, 2004 does not acknowledge that amendment.

As noted in the prior response, Applicant cannot find in the applied reference, for example, a secondary compression mechanism located above the primary compression

mechanism and connected to the tunnel to push feed away from above the primary compression mechanism and *substantially only toward an upper portion of the tunnel cavity* during operation of the primary compression mechanism, as presently recited in claim 19 and incorporated in claims 21, 22, 24 and 38. *Rasmussen* provides a tunnel cleanout mechanism that pushes feed from the entire tunnel, rather than compressing feed in the upper tunnel so that more feed can be pushed there by the primary compression mechanism. Further, Rasmussen cannot operate their cleanout mechanism during operation of the primary compression mechanism, since feed would wedge behind the plate in its pushed-out position, preventing it from withdrawing, preventing feed from extruding into the bag, and defeating its purpose.

See *Rasmussen* column 4 lines 50-57, describing that during the filling operation, the cleanout plate is maintained in its retracted position abutting the topwall and backwall of the tunnel. See also Rasmussen column 5 lines 21-32, describing upon completion of the filing of the bag, that the cleanout plate is pivoted from the retracted position to the extended position to clean out substantially all of the silage entrapped in the tunnel.

Claims 19, 21, 22, 24, and 38 (as well as new dependent claims 45-46) appear to be in condition for allowance, and reconsideration and withdrawal of the rejections are respectfully requested.

§103 Rejection of the Claims

Claims 20 and 23 were rejected under 35 USC § 103(a) as being unpatentable over Rasmussen et al. (4,310,036) in view of Goar (3,881,407). Applicant cannot find in *Rasmussen* or *Goar*, for example, a secondary compression mechanism located above the primary compression mechanism and connected to the tunnel to push feed away from above the primary compression mechanism and *substantially only toward an upper portion of the tunnel cavity* during operation of the primary compression mechanism, as presently recited in claim 19 and incorporated in claims 20 and 23. *Goar's* compression plate 50 compresses garbage only into the lower 1/2 of the garbage box. *Rasmussen's* cleanout plate is not for compressing feed, but rather is taught as for emptying feed from the tunnel after the bag has been filled, so that feed (e.g., 3 tons) is not left residing in the tunnel, particularly if the tunnel is being hauled along a highway (*Rasmussen* column 5 lines 15-19; column 1 lines 45-47)

Furthermore, Applicant traverses the rejections because the applied reference does not identify a proper motivation to modify or combine *Rasmussen* with *Goar*. According to M.P.E.P. § 2143.01, the mere fact that references *can* be modified does not render the resultant combination obvious unless prior art also suggests (i.e., a prior-art supported, objective suggestion) the desirability of the modification. Pursuant to M.P.E.P. § 706.02(j), "[t]he initial burden is on the Examiner to provide some suggestion of the desirability of doing what the inventor has done." The Examiner has not met this requirement. See also *In Re San Su Lee*, 277 F.3d 1338 (CAFC 2002). Applicant respectfully submits that the evidence of record does not appear to identify an objective source for the motivation to combine *Rasmussen* and *Goar* in the manner proposed. The Examiner has not stated how *Rasmussen* or *Goar* establishes that it would be in need of, for example, a secondary compression mechanism located above the primary compression mechanism and connected to the tunnel to push feed away from above the primary compression mechanism and substantially only toward an upper portion of the tunnel cavity during operation of the primary compression mechanism as recited in claim 19 and incorporated in claim 20 and 23. Applicant cannot find any suggestion in *Rasmussen* to employ such a component. Applicant respectfully requests the Examiner identify an objective source for the motivation to modify the applied reference in the manner proposed. Alternatively, it appears, the requisite motivation for modifying *Rasmussen* with *Goar* is lacking, and therefore, proper *prima facie* obviousness has not been established.

Moreover, Applicant again traverses the Official Notice taken in the Office Action at page 4, section 8, last paragraph. Pursuant to M.P.E.P. § 2144.03, Applicant previously respectfully requests a reference showing a secondary compression mechanism located on the exterior of the feed tunnel and extending into the feed tunnel *above the primary compression mechanism*, as recited in claim 20. *Goar* does not provide this. Further, Applicant also requests a reference showing a hinged apparatus that protrudes outward of the feed tunnel wall at the non-compacting stage and extending inward into the feed tunnel at the compacting stage *above the primary compression mechanism*, as recited in claim 23. *Goar* also does not provide this. Alternatively, Applicant submits the assertions made are unsupported by the reference and therefore are within the personal knowledge of the Examiner. Applicant requests an affidavit

supporting the unsupported assertions as required by 37 CFR 1.104(d)(2), or removal of the unsupported assertions.

Accordingly, claims 20 and 23 appear to be in condition for allowance, and reconsideration and withdrawal of the rejections are respectfully requested.

Claim 39 was rejected under 35 USC § 103(a) as being unpatentable over Rasmussen et al. (4,310,036). As stated above, Applicant cannot find in the applied reference, for example, a secondary compression mechanism located above the primary compression mechanism and connected to the tunnel to push feed away from above the primary compression mechanism and *substantially only toward an upper portion of the tunnel cavity* during operation of the primary compression mechanism, as presently recited in claim 19 and incorporated in claim 39.

Accordingly, claim 39 appears to be in condition for allowance, and reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1-3 and 40 were rejected under 35 USC § 103(a) as being unpatentable over Rasmussen et al. (4,310,036) in view of Goth (6,379,086). Applicant respectfully traverses. Goth has a motor and arms attached to the flat horizontal bottom of a tank. The tank has outwardly sloping walls that do not have any motors or arms. Applicant cannot find in Rasmussen or Goth, for example, a secondary compression mechanism located above the primary compression mechanism and connected to the tunnel to push feed away from above the primary compression mechanism and *substantially only toward an upper portion of the tunnel cavity* during operation of the primary compression mechanism, as presently recited in claim 19 and incorporated in claims 1-3 and 40. In fact, claim 1 recites "first motor coupled to the sloping wall of the input hopper; and a first distribution mechanism driven by the first motor and located inside the hopper."

Accordingly, claims 1-3 and 40 appear to be in condition for allowance, and reconsideration and withdrawal of the rejection is respectfully requested.

Claim 4 was rejected under 35 USC § 103(a) as being unpatentable over Rasmussen et al. (4,310,036) in view of Goth (6,379,086). Applicant respectfully traverses. As stated above,

Applicant cannot find in Rasmussen or Goth, for example, a secondary compression mechanism located above the primary compression mechanism and connected to the tunnel to push feed away from above the primary compression mechanism and *substantially only toward an upper portion of the tunnel cavity* during operation of the primary compression mechanism, as presently recited in claim 19 and incorporated in claim 4.

Accordingly, claim 4 appears to be in condition for allowance, and reconsideration and withdrawal of the rejection is respectfully requested.

Claims 27-32, 34, 35, 37, and 41 were rejected under 35 USC § 103(a) as being unpatentable over Rasmussen et al. (4,310,036) in view of Bahlmann (DE 3619251). Applicant respectfully traverses. Bahlmann's entire tunnel is in the upper portion of that machine. Bahlmann's mechanism does not compress the feed in the upper portion only of the tunnel, because feed of the entire tunnel is compressed by rake 5. Bahlmann does not fill a bag, but rather compresses silage blocks 36 that are ejected out back door 39 once large enough. There is no motivation to replace the cleanout mechanism of Rasmussen, since that mechanism is for cleaning out the tunnel, and operated only after the primary mechanism is stopped, in order to clean out its tunnel after completion of filling of the bag. If Rasmussen continued to operate its primary compression mechanism, it would add feed back into the tunnel after the bag filling completed. There is no use in having the tunnel of Rasmussen filled during an operation that cleans out the tunnel. Any other motivation to combine would change the operating principles of Rasmussen and would impermissibly come from the teaching of the present invention. Thus claims 27-32, 34, 35, 37, and 41 appear in condition for allowance, and such action is respectfully requested.

Claims 42 was rejected under 35 USC § 103(a) as being unpatentable over Rasmussen et al. (4,310,036) in view of Bahlmann (DE 3619251) also. Applicant respectfully traverses. The proffered motivation that workable or optimum ranges involves only routine skill in the art does not apply to Rasmussen, where, in the words of the Examiner, "the result desired" is the bag is filled (a process that is typically measured in hours) and the tunnel is emptied only once at the end of the process (see the discussion of Rasmussen above). The notion of operating the pistons

once every nine or ten seconds is totally unworkable. Further, the Examiner has provided no evidence whatsoever that any prior art recognized any preferred, optimal, or workable range of providing timing of additional compression in the upper portion of the tunnel. Accordingly, claim 42 appears in condition for allowance, and an early indication of allowance is respectfully requested.

Allowable Subject Matter

The Examiner acknowledged that claims 5, 6, 7, and 33 are directed to allowable subject matter.

New claims 43-48 have been added to more fully describe the claimed invention. Claims 43-45 and 47-48 recite "the secondary compression mechanism includes a multi-toothed rotary mechanism that is rotated so the teeth force feed up and back in the upper half of the tunnel."

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (952) 278-3501 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 502931.

Respectfully submitted,

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Date 17 August 2004 By _____
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Mail Stop Amendment, P.O. Box 1450, Alexandria, VA 22313-1450, on this 17th day of August, 2004

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Name Signature